

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS**

**E.F.,**

**Plaintiff**

**C.A. No. 05-11391GAO**

**v.**

**AMERICA WEST AIRLINES, INC.,  
Defendant**

**DEFENDANT'S, AMERICA WEST AIRLINES, INC.,  
ASSENTED TO MOTION FOR LEAVE TO CONDUCT DISCOVERY**

Now comes the Defendant, America West Airlines, Inc., (hereinafter referred to as "America West") and hereby moves this honorable Court to allow it time to conduct discovery in this matter. This Motion is assented to by Plaintiff. In support of this Motion, America West submits this incorporated memorandum of law and states as follows:

1. Since the hearing on Defendant's Motion to Appoint a Guardian Ad Litem, the parties have discussed settlement but have been unable to settle this matter.
2. The parties have discussed mediation and believe that mediation may be of assistance.
3. However, in order to fully prepare for mediation of this matter, America West believes limited discovery is necessary, including the depositions of the passengers identified in the disclosures of America West who are not parties to this litigation.
4. America West and prior counsel for Plaintiff had agreed to hold off on discovery previously in order to settle this matter, however, those efforts were unsuccessful.
5. Plaintiff does not currently dispute that discovery was previously put on hold to attempt to settle this Motion and has assented to the instant Motion.

6. Neither party will be prejudiced by the allowance of this Motion.

WHEREFORE, the Defendant, America West Airlines, Inc., respectfully requests that this honorable court grant it leave to conduct discovery and allow it 60 days from the date of the ruling on this Motion for discovery.

Respectfully submitted,  
AMERICA WEST AIRLINES, INC.,  
By Its Attorneys,

/s/ Carey Bertrand  
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Assented to:

/s/ Mark T. Stopa  
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**Certificate of Service**

I, Carey Bertrand, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the NEF on September 13, 2006.

/s/ Carey Bertrand